



**APLAC**

Asia Pacific Laboratory Accreditation Cooperation

**APLAC  
CONSTITUTION**

## **PURPOSE**

Following the incorporation of APLAC in New Zealand this Constitution replaces the APLAC Memorandum of Understanding and the APLAC Rules of Procedure in defining the formal structures and rules for the operation of APLAC as a registered society. This Constitution is the peak APLAC document.

## **AUTHORSHIP**

This document has been written by the APLAC General Assembly and endorsed by the New Zealand Registrar of Incorporated Societies.

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**1. NAME OF ASSOCIATION**

The name of the Association is Asia Pacific Laboratory Accreditation Cooperation Incorporated

**2. OBJECTIVES**

**2.1** The objectives of the Asia Pacific Laboratory Accreditation Cooperation Incorporated (APLAC) are:

- (a) to provide a forum for exchange of information and to promote discussion among laboratory and inspection body accreditation bodies, and among organisations that are interested in laboratory and inspection body accreditation, and related activities;
- (b) to improve the standard of accreditation services provided by Full members;
- (c) to facilitate collaboration and cooperation among Members, including seminars and meetings of experts, exchanges of personnel, etc;
- (d) to enable Members to provide assistance and to exchange experts in training, proficiency testing, harmonisation of criteria and practices;
- (e) to publish, where appropriate, papers and reports on related subjects which further the objectives of APLAC;
- (f) to develop guidance documents on laboratory and inspection body accreditation and related subjects;
- (g) to organise proficiency testing and related activities in the region;
- (h) to build up and to maintain mutual confidence in the technical competence among Full Members and to work towards further development of the APLAC multilateral mutual recognition arrangement (MRA);
- (i) to develop procedures for evaluating organisations entering and participating in the APLAC MRA, and for monitoring and, if necessary, improving its effectiveness;
- (j) to promote the mutual recognition arrangement among Full Members, to other regional arrangements and individual national and regional accreditation bodies;
- (k) to promote international acceptance of test, calibration and inspection reports and other documents issued by laboratories and inspection bodies accredited by signatories to the APLAC MRA;
- (l) to encourage Members to assist all interested accreditation bodies in the region to develop their systems such that they can participate fully in the APLAC MRA;
- (m) to cooperate with other national, regional and international bodies with similar or complementary objectives.

- 2.2** The property and income of APLAC shall be applied solely towards the promotion of its objectives and no part of that property or income may be paid or otherwise distributed directly or indirectly, to members, except in good faith in the promotion of those objectives.

### **3. MEMBERSHIP**

#### **3.1 Eligibility**

APLAC has two classes of Membership, Full Members and Associate Members, drawn from any APEC (Asia Pacific Economic Cooperation) economy.

Bodies from non-APEC economies may be eligible for Full or Associate Membership with the agreement of a three-fourths majority of the General Assembly, as defined in 5.4 below.

#### **3.2 Full Members**

Full Members are fully operational National and Regional third-party organisations engaged in the accreditation of laboratories and/or inspection bodies and organisations doing related activities, as designated by their governments or otherwise recognised by APLAC as well-established practitioners. The APLAC Secretariat maintains a membership register that includes the name, address, and date of membership for each Full member.

#### **3.3 Associate Members**

Associate Members are organisations expressing an interest in accreditation of laboratories and/or inspection bodies and organisations doing related activities, and wishing to participate in APLAC activities. The APLAC Secretariat maintains a membership register that includes the name, address and date of membership for each Associate member.

#### **3.4 New Members**

- 3.4.1** An applicant for Membership shall agree to abide by the APLAC Code of Ethics.
- 3.4.2** An organisation applying directly for Full Membership or for transfer from Associate to Full Membership shall be able to demonstrate that it is fully operational and that:
- (a) it has formal recognition by its government to provide accreditation services for laboratories and/or inspection bodies and organisations doing related activities; or
  - (b) it has formal endorsement by participation in another recognition mechanism such as that of an International Laboratory Accreditation Cooperation (ILAC) member national coordination body; or
  - (c) it has substantial industry recognition either across industry or within a significant industry sector as a well-established practitioner in the field of accreditation of laboratories and/or inspection bodies and organisations doing related activities.

For acceptance under either (a) or (b) above, the applicant shall provide documentary evidence of its government recognition or participation in another recognition mechanism. For acceptance under (c) above, the applicant shall provide documentary evidence of industry recognition acceptable to the General Assembly.

A body not able to satisfy one or other of these conditions is eligible for Membership as an Associate Member.

3.4.3 To satisfy the condition of being a “well-established practitioner”, the applicant shall provide documentary evidence as to the extent of its recognition. This includes addressing each of the following points:

- (a) a significant number of accredited laboratories and/or inspection bodies and organisations doing related activities in one or more sectors;
- (b) substantial market penetration of laboratories and/or inspection bodies and organisations doing related activities operating within one or more industry sectors;
- (c) a history of accreditation and experience with surveillance and reassessment of accredited laboratories and/or inspection bodies and organisations doing related activities;
- (d) evidence of recognition by specifiers and purchasing bodies;
- (e) evidence of any formal appraisal by an external body;
- (f) other evidence as the applicant may deem relevant, including details of any mutual recognition arrangements with a member of the APLAC MRA.

3.4.4 Except as defined in clause 3.4.2 above, APLAC will, in general, accept a self-declaration from applicant bodies of compliance with Membership requirements (see application form). It does, however, reserve the right to require an applicant body to provide appropriate supporting documentation.

3.4.5 An application for membership shall be made by completing the APLAC Application for Membership form and forwarding this to the Secretary who shall advise the Chair and Board of Management.

3.4.6 An application for Full membership from a body that meets the requirements of 3.4.2 (a) above is exempt from a ballot for Full membership. This is, however, conditional upon evidence of government designation and operational status being reviewed and accepted by the Board of Management. All other applications for Full and Associate membership shall be subject to a ballot as defined in 3.4.7 below. Any negative vote shall include reasons why APLAC should not accept the application. These reasons must relate to the membership criteria as defined in 3.4.2 and 3.4.3 above.

Where a negative vote has cogency, it shall be referred to the Board of Management for discussion, with further referral to the General Assembly where deemed necessary.

A decision to accept a new Member may be made by postal vote of current Full Members.

- 3.4.7 A new Member will be admitted if three-fourths of the votes returned are affirmative, following the procedure defined in 5.4 below. A minimum of three-fourths of the Full Members must cast votes for the ballot to be valid. If less than three-fourths of the Full Members vote, a decision on the admission of the applicant shall be postponed until the next ordinary session of the General Assembly.

For a postal ballot, a period of one month from the date of posting shall be allowed for return of votes. An applicant, unsuccessful in the postal ballot, has the right of appeal to the next ordinary session of the General Assembly. (Note: the postal vote includes use of mail, facsimile and electronic communication such as e-mail. For the electronic transmittal of ballot papers, Members shall be asked to confirm receipt.)

- 3.4.8 An organisation accepted as a Full or Associate Member shall pay the annual membership fee (on a pro-rata basis to the end of the current financial year) before being listed as an APLAC Member.

### **3.5 Termination of Membership**

A Member of any class may have its Membership terminated:

- (a) by written resignation sent to the Secretary;
- (b) for non-payment of fees or other debt to APLAC (see 4.1 below);
- (c) for serious breaches of the APLAC Code of Ethics, subject to the Alternate Dispute Resolution provisions, as decided by the APLAC General Assembly.

Any organisation whose Membership is terminated remains liable to pay APLAC any fees due and payable but unpaid at the date of termination.

## **4. APLAC FEES**

- 4.1 The APLAC Members shall pay a yearly fee to cover the costs agreed in the annual budget as provided for under 10.2 below. Such expenses include those of the Secretariat and specially funded projects agreed to by the General Assembly.

All meeting expenses, except those of the Secretariat, shall be borne by the participants.

The annual fee for the current Members shall be paid within three months of the fee being levied, unless agreed otherwise by the Board of Management. If fees are not paid by the due date, the Member shall be reminded of the overdue payment and advised that the Membership will be suspended if payment is not received by 30 June in the financial year for which the fee applies. If the fee has not been paid by the end of the APLAC financial year (i.e. by 31 December) Membership shall be terminated.

For Members applying during the current financial year, clause 3.4.8 above applies.

A suspended Member shall have its name removed from the list of Members but shall continue to receive correspondence from APLAC. An organisation whose membership is suspended shall not claim that it is a member of APLAC.

On termination of Membership all correspondence from APLAC ceases.

## **5. GENERAL ASSEMBLY**

APLAC's primary body is the General Assembly.

The General Assembly ensures that specific tasks are pursued in accordance with the objectives and aims of APLAC.

### **5.1 Composition of the General Assembly**

- 5.1.1 The General Assembly comprises one representative from each of the Full Members and Associate Members.
- 5.1.2 Each Member shall inform the Chair of the name of its appointed representative to the General Assembly and this name shall be recorded in the register of Members. All APLAC communications shall be referred to the appointed representatives. It is the responsibility of the appointed representatives to disseminate all APLAC correspondence to relevant persons in her/his organisation.
- 5.1.3 Observers may be invited by the APLAC Chair to be present at meetings of the General Assembly, or parts of meetings.

### **5.2 Responsibilities of the General Assembly**

- 5.2.1 The General Assembly shall be responsible for all matters relating to the operation of APLAC, including:
  - (a) policies;
  - (b) election of the Chair;
  - (c) acceptance of new Full Members and Associate Members;
  - (d) terminations of Membership for due cause as defined in clause 3.5 (c) above;
  - (e) election of members to the APLAC Board of Management;
  - (f) setting up and disbanding of APLAC committees and working groups;
  - (g) election of Chairs of APLAC committees;
  - (h) approval of APLAC policy and procedural documents;
  - (i) approval of APLAC MRA Council procedures, and of criteria used by that Council;
  - (j) decisions on the APLAC budget and supervision of other financial matters;

- (k) decisions by APLAC to enter into arrangements with other regional bodies and with bodies from other economies;
  - (l) handling of appeals and disputes;
  - (m) other matters as agreed from time to time by the General Assembly.
- 5.2.2 The General Assembly may delegate responsibilities to the Board of Management as it sees fit.
- 5.3 Meetings of the General Assembly**
- 5.3.1 The General Assembly shall meet at least once each calendar year.
- 5.3.2 In consultation with APLAC Members, the Chair shall decide the date and place of meetings of the APLAC General Assembly.
- 5.3.3 The Secretary, in consultation with the Chair, shall prepare a provisional agenda for each meeting of the APLAC General Assembly, taking into account any proposals made by APLAC Members and APLAC committees and working groups. Such proposals should be sent to the Secretary at least six weeks before the meeting at which the topic is to be discussed.
- 5.3.4 The Secretary shall send the provisional agenda and meeting documents to the representatives of the General Assembly and, where appropriate, invited observers by an agreed time before the date of the meeting.
- 5.3.5 The Secretary shall circulate draft Minutes of meetings of the APLAC General Assembly to representatives to the General Assembly and, where appropriate, invited observers in a timely manner.
- 5.3.6 Comments on the draft Minutes shall be sent to the Secretary within two months of circulation of the draft Minutes.
- 5.3.7 The Minutes shall be confirmed at the next meeting of the General Assembly.
- 5.3.8 Observers who were invited to attend only part of a meeting shall receive at least an excerpt from the Minutes covering that part of the meeting.

**5.4 Voting Procedures**

- 5.4.1 APLAC shall seek to reach decisions by a process of consensus. However, in the event that a vote is required within an ordinary session of the General Assembly, only the designated representative of each Full Member with no outstanding fees at the time may vote. The designated representative may authorise, in writing, an alternate to vote on behalf of the Full Member. This process may also be used for postal ballots. In the event that there is more than one Full Member per economy, there shall be one vote per economy, as exercised by a nominee elected by the Full Members of that economy who are fully financial, i.e. those without any outstanding fees. Unless otherwise specified, a simple majority is required for resolution. No proxies are permitted.

In ballots on applications for Membership, there is one vote per Full Member.

Postal voting (mail, facsimile, electronic) is also permitted for the final acceptance and adoption of APLAC documents that have been discussed during an ordinary session of the General Assembly. A period of one month from the date of posting shall be allowed for return of votes. For the electronic transmittal of ballot papers, Members shall be asked to confirm receipt.

In any vote by the Members during a session of the General Assembly, a minimum of three-fourths of the Full Members present and eligible to vote (i.e. fully financial Members) must cast a vote for the ballot to be valid. For a postal ballot, a minimum of three-fourths of the Full Members eligible to vote (i.e. fully financial Members) must cast a vote for the ballot to be valid. Abstention votes are counted as valid votes. A positive vote by three-fourths of the sum of those voting “yes” and “no” is required for a ballot to be accepted.

- 5.4.2 If one or more Members within a multiple-Member economy has outstanding fees, the economy may still cast a vote provided that at least one Member is fully financial.
- 5.4.3 Notwithstanding clause 5.4.1, the General Assembly may decide to permit voting by each Full Member on particular questions to be decided by application of clause 5.4.1.
- 5.4.4 Noting that Associate Members have already been granted voting rights in the election of members of the Board of Management as specified in clause 6.1.1(c), the General Assembly may decide to permit voting by Associate Members on other issues to be decided by application of clause 5.4.1.

## **5.5 Quorum for Meetings**

The quorum for a meeting of the General Assembly is the nearest whole number above 50% of Full Members eligible to vote, i.e. of those who are fully financial.

## **5.6 Special Meetings of the General Assembly**

The Board of Management may at any time convene a special meeting of the General Assembly. These special meetings will be convened to be held in conjunction with any other planned mid-year APLAC meeting such as a meeting of the APLAC MRA Council.

## **6. BOARD OF MANAGEMENT**

The Board of Management is responsible to the General Assembly for the effective pursuit of APLAC objectives, including implementation of APLAC policy as directed by the General Assembly, and for day-to-day management of the Cooperation (including financial management) between the meetings of the General Assembly.

A quorum is composed of 5 members, including the Chair or Immediate Past Chair or, when there is no Immediate Past Chair, the MRA Council Chair. The APLAC Chair chairs the Board meetings but in his/her absence the meetings shall be chaired by the Immediate Past Chair. When there is no Immediate Past Chair and the Chair is not able to attend the meeting, the MRA Council Chair shall chair the Board meeting.

## **6.1 Composition of the Board of Management**

6.1.1 The Board of Management shall consist of:

- (a) the APLAC Chair who also chairs the Board of Management;
- (b) the immediate past APLAC Chair for a period of two years, starting from the time when he/she ceases to be the APLAC Chair, unless he/she elects not to continue on the Board;
- (c) five Full Members drawn from five separate APLAC economies elected by both Full and Associate Members;
- (d) the Chair of the APLAC MRA Council.

6.1.2 When an election is required for the five economies to be represented it shall be on the basis of a simple majority of votes cast following the procedure described in 5.4 above and in the Nominations Committee procedure.

6.1.3 The Board of Management may elect an APLAC Vice-Chair from among its members who shall hold office for no longer than the duration of his/her term of office on the Board.

6.1.4 The Board of Management shall elect a Treasurer from among its members who shall hold office for no longer than the duration of his/her term of office on the Board.

6.1.5 Elected members of the Board of Management may, upon prior advice to the Chair, nominate deputies, from that member's organisation, for specific meetings.

6.1.6 Meetings of the Board of Management are open only to its members except at the invitation of the Chair.

6.1.7 In the event of a casual vacancy occurring for an elected member, the Full Member from which the previous elected member of the Board of Management was drawn may designate a replacement to complete the term of the previous member. Such replacements do not automatically assume any position of office held by their predecessor.

## **6.2 Reports to the General Assembly**

The Board of Management shall report to the APLAC General Assembly at least annually. This report shall include a financial report.

## **6.3 Responsibilities of the Board of Management**

The responsibilities of the APLAC Board of Management are:

- (a) to promote the coherent and transparent application of APLAC's principles in the field of laboratory and inspection body accreditation and accreditation of organisations doing related activities;

- (b) to promote international cooperation between APLAC and other regional organisations for laboratory and/or inspection body accreditation or other relevant bodies;
- (c) to promote proper cooperation with other relevant bodies in the field of conformity assessment;
- (d) to endorse appointment of APLAC committee members;
- (e) to ensure proper coordination among APLAC committees;
- (f) to draft proposals concerning the policies of APLAC;
- (g) to receive and discuss reports from APLAC committees and working groups and prepare proposals for the APLAC General Assembly arising from these reports;
- (h) to review applications for Membership and to make recommendations on them to the General Assembly;
- (i) to meet at least once each calendar year;
- (j) to ensure that all sources of funds are managed with due diligence and that costs are contained within budget limits;
- (k) to implement all delegated responsibilities (see 5.2.2 above).

#### **6.4 Term of Office**

The Members of the Board of Management shall normally be elected for a term of two years. In accordance with the APLAC financial year, the term of office for each member shall conclude on 31 December and shall be set to ensure continuity of the membership of the Board of Management. Sitting members are eligible for re-election.

Under 6.1.1 (c) above, three members shall be elected in the year of the election of the APLAC Chair, APLAC MRA Council Chair and APLAC committee Chairs. The other two members shall be elected in the alternate year.

### **7. THE APLAC CHAIR AND SECRETARIAT**

#### **7.1 Election of Chair**

APLAC shall elect a Chair for a period of two years with his/her term of office concluding on 31 December in the second year of office, in accordance with the APLAC financial year. A nominee for the position of Chair shall be the General Assembly delegate of a Full Member. A person is eligible for re-election for further two year terms but may only serve two terms, i.e. four years, consecutively at any time.

#### **7.2 Chair's Responsibilities**

7.2.1 The APLAC Chair shall be responsible for:

- (a) chairing meetings of the APLAC General Assembly and the APLAC Board of Management;
- (b) conducting, on behalf of the APLAC General Assembly, the day-to-day business of APLAC, in particular, the execution of decisions taken by the APLAC General Assembly and Board of Management;
- (c) ensuring the proper functioning of APLAC;
- (d) acting on behalf of APLAC between meetings of the General Assembly, wherever possible with the advice of the Board of Management;
- (e) promoting the interests of APLAC.

7.2.2 The Chair may delegate tasks to any APLAC Full Member as appropriate.

### **7.3 Secretary's Responsibilities**

7.3.1 The Member Body from which the Chair is elected may also provide the Secretariat. The General Assembly decides the provider of the Secretariat. Provision of the Secretariat is formalised by the signing of a Deed of Agreement between the Board of Management and the Member Body providing the secretariat.

7.3.2 The APLAC Secretary shall be responsible for:

- (a) maintenance of the register of Members;
- (b) communication with APLAC Full Members and Associate Members;
- (c) preparation and circulation of documents for, and Minutes of, meetings of the General Assembly and the Board of Management;
- (d) periodic circulation to APLAC representatives of a list of scheduled meetings of the APLAC committees;
- (e) external correspondence;
- (f) maintenance of APLAC files and archives;
- (g) being one of two signatories on APLAC cheques;
- (h) such other duties as determined by the General Assembly from time to time, and detailed in a Statement of Duties that forms part of the Deed of Agreement (clause 7.3.1 above).

7.3.3 The duties of the Secretary concerning the meetings of the APLAC General Assembly are stated in 5.3 above.

### **7.4 Treasurer's Responsibilities**

7.4.1 The APLAC Treasurer shall be responsible for:

- (a) monitoring income and expenditure;

- (b) in collaboration with the Chair and Secretary, preparation of an annual budget and its submission to the General Assembly;
- (c) preparation of an annual statement of expenditure (audited as required) and its submission to the General Assembly.

## **8. APLAC MRA COUNCIL**

A standing committee shall be established to coordinate APLAC's activities with respect to mutual recognition arrangements among Members.

This standing committee is known as the APLAC MRA Council.

## **9. APLAC COMMITTEES AND WORKING GROUPS**

APLAC may establish committees, sub-committees and working groups. These APLAC committees and working groups are set up to carry out the objectives, aims and tasks of APLAC in an appropriate way.

APLAC committees will either be set up to deal with specific tasks or may be of a permanent nature.

## **10. APLAC BUDGET AND CONTROL OF APLAC FUNDS**

APLAC is intended to be a self-funding cooperation among its Members; to this end, its financial viability is a responsibility shared by all Members.

- 10.1** Each year the APLAC Treasurer, on behalf of the Board of Management, shall propose to the APLAC General Assembly a draft budget for the coming financial year showing expected incomes (fees and any other type of financial resources) and Secretariat expenses plus any other expenditure agreed from time-to-time by the General Assembly. It excludes, however, costs incurred by the body hosting the Secretariat with respect to its own participation in APLAC activities.
- 10.2** The APLAC budget for each financial year shall be based on an estimate of the costs to be shared among APLAC Members as determined by the APLAC General Assembly.
- 10.3** Each year the APLAC Treasurer shall present a statement of income and expenditure for the previous financial year to the APLAC General Assembly.
- 10.4** The APLAC Treasurer shall have access to all financial information and records and shall be supplied with all financial reports.
- 10.5** The bulk of APLAC's income is from annual fees levied on members using the formula agreed by the APLAC General Assembly. The APLAC Secretariat shall be responsible for issuing invoices and receipts. The Secretariat shall be responsible for operating the APLAC bank account, authorising payments and writing cheques on behalf of APLAC. Cheques shall normally be signed by the APLAC Secretary

and one of the three other signatories nominated by the APLAC Board of Management. If the Secretary is absent, two of the other three nominated signatories shall sign the cheques.

- 10.6** APLAC does not intend to borrow money but, should it need to borrow money, it shall only be for purposes covered by the objectives of APLAC. The APLAC Treasurer, on behalf of the Board of Management, shall make a proposal for borrowings as part of the draft budget for the coming financial year presented to the APLAC General Assembly. A proposal to borrow money shall be agreed by a minimum of a three-fourths majority of valid votes cast by the General Assembly.

## **11. AMENDMENT OF APLAC CONSTITUTION**

- 11.1** This Constitution shall only be amended following notice of a proposal given to all Members at least one month prior to a meeting of the General Assembly and agreed by a minimum of a three-fourths majority of valid votes cast by the APLAC General Assembly.
- 11.2** This Constitution binds every Member and APLAC to the same extent as if every Member and APLAC had signed and sealed this Constitution and agreed to be bound by all its provisions.

## **12. COMMON SEAL OF APLAC**

- 12.1** APLAC shall have a common seal on which its corporate name, i.e. Asia Pacific Laboratory Accreditation Cooperation Incorporated, appears in legible characters.
- 12.2** The common seal of APLAC shall not be used without the express authority of the Board of Management and each use of that common seal must be recorded.
- 12.3** The common seal of APLAC shall be kept in the custody of the Secretary or of such other person as the Board of Management from time to time decides.

## **13 INSPECTION OF RECORDS AND OTHER DOCUMENTS**

A Member may at any reasonable time inspect without charge the books, documents, records and securities of APLAC, provided this does not conflict with APLAC's policies on the confidentiality of records

## **14. APPEALS AND ALTERNATIVE DISPUTE RESOLUTION**

### **14.1 Introduction**

- 14.1.1** An applicant body may appeal an APLAC General Assembly decision to deny membership of APLAC. A Member body may appeal an APLAC General Assembly decision to take action against it for a breach of the APLAC Code of Ethics.

An applicant body or MRA signatory may appeal an APLAC MRA Council decision specific to its MRA signatory status or any conditions pertaining thereto. A decision to withdraw signatory status in the APLAC MRA may result in immediate

suspension of recognition of the equivalence of laboratory and inspection body reports and reports issued by accredited organisations doing related activities by the other signatories, prior to and during implementation of the appeal (Alternative Dispute Resolution or ADR) process.

The appeal shall be sent to the APLAC Secretary, in writing, within 30 days of notification of the decision of the APLAC General Assembly or MRA Council, whichever body is applicable. The appeal shall include

- (a) the issues in dispute;
- (b) the basis for the accreditation body's position;
- (c) the remedy sought;
- (d) the name and title of the executive or official who will represent the accreditation body and any other person(s) who will accompany the executive or official at the ADR process.

During the course of an accreditation body's appeal against the withdrawal of its existing recognition by the APLAC MRA Council, the signatory status shall remain in effect. Even after the ADR process has started, however, other signatories may decide to suspend such recognition.

14.1.2 The APLAC General Assembly or MRA Council, whichever body is applicable, and the accreditation body shall use the alternative dispute resolution process to resolve the appeal. This is a formal three-step process of negotiation, mediation and binding arbitration.

#### **14.2. Negotiation**

14.2.1 The APLAC General Assembly or MRA Council, whichever body is applicable, and the accreditation body (the Parties) shall attempt in good faith to resolve the appeal by negotiating between officials who have authority to settle the dispute.

14.2.2 Within forty-five (45) days after delivery of the accreditation body's appeal, the representatives of the Parties shall communicate by a mutually acceptable means, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one Party to the other shall be honoured. If the matter has not been resolved within ninety (90) days of the accreditation body's appeal, or if the Parties fail to communicate within forty-five (45) days, either Party may initiate mediation of the dispute or claim provided hereafter.

14.2.3 All negotiations pursuant to this agreement are confidential.

#### **14.3 Mediation**

14.3.1 In the event that the appeal has not been resolved by negotiation, the Parties shall participate in mediation, using a mediator agreed upon mutually. The mediator will not render a decision, but will assist the Parties in reaching a mutually satisfactory agreement. The Parties shall agree to equally split the costs of the mediation.

14.3.2 The first mediation session shall commence within forty-five (45) days from the agreement to mediate. All mediations are confidential and shall be treated as compromise.

#### **14.4 Binding Arbitration**

14.4.1 Should the procedures identified in this clause fail to resolve the appeal to the satisfaction of the Parties, the Parties shall elect to have the appeal resolved through binding arbitration. Both Parties must agree to submit the appeal to arbitration. The arbitration proceeding shall take place in a manner consistent with the Rules of Arbitration of the International Chamber of Commerce. The appeal shall be resolved by one (1) arbitrator who is an expert in the particular area of the appeal. The arbitrator shall be selected using procedures consistent with the Rules of Arbitration of the International Chamber of Commerce.

14.4.2 The decision rendered by the arbitrator shall be final. The demand for arbitration shall be made no later than six (6) months after the date of the appeal by the accreditation body. The parties shall split the costs of arbitration as follows:

- (a) the arbitration administrative fees shall be borne equally by the Parties;
- (b) the expense of a stenographer shall be borne by the Party requesting a stenographic record;
- (c) witness expenses for either side shall be paid by the Party producing the witness;
- (d) each Party shall bear the cost of its own travel expenses;
- (e) all other expenses shall be borne equally by the Parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

#### **15. WINDING UP**

15.1 The Board of Management shall be entitled, upon decision by the General Assembly, to wind up APLAC.

15.2 APLAC shall continue to exist in so far as this is necessary for the settlement of outstanding affairs.

15.3 Upon winding up, the General Assembly shall determine the distribution of assets, doing so as far as possible to a body or bodies having objectives similar to APLAC but in no case shall any Member body be a beneficiary.

#### **16. FINAL PROVISIONS**

The General Assembly shall decide on all matters for which this Constitution makes no provision.